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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,609	08/04/2000	Lawrence W. Yonge III	04838-062001	2611

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Fish & Richardson P C  
225 Franklin Street  
Boston, MA 02110-2804

EXAMINER

KWOH, JASPER C

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 07/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/632,609

Applicant(s)

YONGE III ET AL.

Examiner

Jasper Kwoh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,9.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: application number and attorney's docket numbers such as ones on pages 12, 13 and 15 should be updated and the boxes on pages 12-13 should be removed.

Appropriate correction is required.

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 1, 2, 19 and 22 recite the limitation "the device". It is unclear if that refers to the first device or the second device.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3, 20 and 22 rejected under 35 U.S.C. 102(b) as being anticipated by Fulthorp et al.

Regarding claim 1 and 22, Fulthorp et al. discloses a method and a program including exchanging messages by a device with a second device over a medium using CSMA to establish a session of periodic contention free interval within the CSMA service for use by the device and second device for contention free traffic on the medium (i.e. abstract, the remote unit and the base station communicate using CSMA a poll request signal and poll signal to be switched from CSMA to TDMA mode); and determining by the device when transmission can occur on the medium during contention free interval based on the exchanged messages (i.e. abstract, using these messages, the base station assigns slots using poll sequence for the remote units to send their data in their assigned time slot).

Regarding claim 2, Fulthorp et al. discloses the device controls the polling (i.e. abstract, the base station) so it's the master and the second device is the slave (i.e. abstract, the remote unit is being controlled).

Regarding claim 3, master sends downstream frames and slave sends up stream frames wherein polling by the master in down stream frames and slave responses within upstream frames (i.e. fig. 4, master send poll down stream 600 and the slave responses 604).

Regarding claim 20, frame control information is heard by others (it is inherent that the poll will be heard by all contending mobile units so they will know who has access to the medium).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulthorp et al.

Regarding claim 17, Fulthorp et al does not specifically disclose that the medium is power line. Official notice is taken that transmitting on power line is old and well known and has the same problems with respect to collision and congestion as radio frequency communication systems. Therefore, it would have been obvious to an

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ordinary person skilled in the art at the time of the invention to use power line as the medium with the method and program of Fulthorp et al. in order to improve channel utilization in a power line system.

Regarding claim 21, Fulthorp et al. does not specifically disclose including a channel map. However, official notice is taken that channel map is old and well known. It is inherent that the transmitted information will need to be decoded and demultiplexed. Therefore, it would have been obvious to an ordinary person skilled in the art at the time of the invention to include all information that are required for the destination to be able to retrieve the information such as a channel map with the method and program of Fulthorp et al. in order to understand the transmitted information.

#### ***Allowable Subject Matter***

11. Claims 4-16 and 18-19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weizman is cited to show a method of collision control in CSMA LAN; Schrader et al. is cited to show dormant polling protocol; Tang is cited to show a scalable CSMA repeater; Cheng is cited to show a dynamic channel management and signaling method and apparatus; and IBM is cited to show combined use of collision resolution and collision avoidance MAC protocol.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jasper Kwoh whose telephone number is (703) 305-0101. The examiner can normally be reached on Monday-Friday.

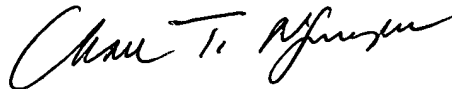
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (703)308-5340. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.



Jasper Kwoh  
Examiner  
Art Unit 2663

JK  
June 30, 2002



CHAU NGUYEN  
SUPERVISORY PATENT EXAMINER  
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